

R E C E I V E D

OCT 17 2018

October 16, 2018

Dear Judge Thompson:

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

RECEIVED

OCT 17 2018

I am the *pro se* defendant in *Wolinetz et al. v. Weinstein et al.*, No. 08-cv-05046-AET-DEA (D.N.J.), and also the petitioner in consolidated § 2255 proceedings in *Weinstein v. United States*, No. 18-cv-00894-AET (D.N.J.), and *Weinstein v. United States*, No. 18-cv-05575-AET (D.N.J.). The issues in these cases are related, because although the government voluntarily dismissed all criminal charges against me concerning Harvey Wolinetz, the same factual allegations gave rise to his civil claims.

My § 2255 petitions make serious, well-supported allegations of ineffective assistance of counsel and judicial misconduct, and based on those claims, I am seeking to withdraw my guilty pleas in *United States v. Weinstein*, No. 11-cr-701-JAP (D.N.J.), and *United States v. Weinstein*, No. 14-cr-219 (D.N.J.). As relief, I have requested a global resolution in which I would enter a new plea, and this Court would impose a proportionate sentence and fair restitution. Alternatively, I have asked for a new trial of the fraud charges, including those relating to Mr. Wolinetz.

Previously, this Court stayed this civil matter until the conclusion of my criminal cases. *See* Order (Nov. 4, 2010) (DE#123). At the end of my direct appeal, this Court re-opened the case. *See* Order (Aug. 8, 2016) (DE#160). Since then, Mr. Wolinetz has moved for summary judgment against me. But I cannot meaningfully respond to that motion, because my participation in this civil case could prejudice my ability to defend myself in any re-trial of my criminal case. Moreover, I am currently serving my sentence in federal prison, and I do not have civil counsel or access to relevant materials.

In light of my pending § 2255 petitions, I respectfully request this Court re-impose its stay until the conclusion of my post-conviction proceedings. A stay would promote judicial economy, avoid unfairness from parallel proceedings, and cause no harm to Mr. Wolinetz, who is the beneficiary of an existing restitution order and could pursue additional civil claims (if he chooses to do so) at the appropriate time.

In the interest of time, I have asked my post-conviction counsel to send a copy of this letter to the Court on my behalf. Thank you.

Respectfully submitted,

s/Eliyahu Weinstein

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 Eliyahu Weinstein  
 Defendant

# FAX

**Date:** Tue Oct 16 5:26 PM EDT 2018

**TO**

**Fax Number:** 16099892007

**Name:** The Honorable Anne E. Thompson

**FROM**

**Fax Number:** 18573218361

**Name:** FickMarx Faxline

**Company:**

**Subject:** Wolinetz v. Weinstein, No. 08-cv-05046

**Pages:** 2

**Notes:**

Please see the attached letter sent on behalf of pro se defendant Eliyahu Weinstein. Thank you for your consideration. Respectfully, Daniel Marx (post-conviction counsel to Mr. Weinstein)